

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

CASE NO.: 22-cv-61029-RAR

LATOYA RATLIEFF,

Plaintiff,

vs.

CITY OF FORT LAUDERDALE, FLORIDA, a  
Municipal Government; ELIEZER RAMOS,  
individually; STEVE SMITH, individually; HERNS  
EUGENE, individually; PAUL CRISTAFARO,  
individually; STEVE GREENLAW, individually;  
AVERY FIGUERAS, individually; JOHN DOE 1,  
individually; JOHN DOE 2, individually; and JOHN  
DOE 3, individually,

Defendants.

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**DEFENDANTS' UNOPPOSED JOINT MOTION FOR RULE 35 EXAMINATION**

Defendants, by and through their undersigned counsel, pursuant to Rule 35(a), *Fed.R.Civ.P.*, jointly move for the entry of an Order for a Rule 35 Examination of Plaintiff, and state:

1. This is a 42 U.S.C. §1983 action alleging Fourth Amendment violations by the City of Fort Lauderdale and several law enforcement officers, including Officer Eliezer Ramos who is alleged to have caused Plaintiff a serious permanent eye injury with a kinetic impact projectile. *See*, Amended Complaint, *generally*. (DE 49). Plaintiff, through this claim, has placed her medical condition at issue.

2. Under Rule 35(a), *Fed.R.Civ.P.*, the Court may order a party “whose mental or physical condition...is in controversy to submit to a physical or mental examination by a suitably

licensed or certified examiner” upon a showing of good cause.

3. Defendants propose to have **Matthew Kay, M.D.** conduct a compulsory neuro-ophthalmology examination of Plaintiff, LaToya Ratlieff as follows:

**Date: April 6, 2023**

**Time: 2:20 p.m.**

**Location: 6333 N. Federal Highway, #401  
Fort Lauderdale, FL**

4. As the Florida Department of Health public access terminal reflects, Dr. Matthew Kay is a medical doctor in good standing in the State of Florida, licensed since October 12, 1992. He completed his residency in Ophthalmology in 1991 and is a member of the American Board of Ophthalmology. Exhibit “A.”

5. The scope of the medical examination will consist of a medical history, measurement of visual acuity, visual field, pupillary reactions, eye pressure, and non-invasive testing to evaluate the health of the eyes and its associated structures, which may include dilation and use of a retinoscopy, ophthalmoscope, tonometer and/or retinal camera. This exam will be video-taped unobtrusively by a videographer retained by Plaintiff’s counsel, and a representative from Plaintiff’s counsel will attend the examination for observation. Dr. Kay will conduct a standard examination that will not include invasive tests or procedures, and which will not include questions pertaining to liability issues. This is not a deposition and questions pertaining to liability are not to be asked. Plaintiff’s counsel will retain a court reporter to be present during this examination. If attempts are made to take either a history of the incident or there are questions as to liability, the examination will be terminated. In addition, the DME report shall be furnished to Plaintiff’s counsel as soon as possible and on an expedited basis, i.e., within thirty (30) days of the DME.

6. Plaintiff's counsel does not oppose the relief requested in this motion subject to limitations outlined in the email correspondence attached hereto as Exhibit "B". Defendants do not take issue with the parameters in Plaintiff's correspondence.

**WHEREFORE**, Defendants move for the entry of an Order for a Rule 35 exam.

JOHNSON, ANSELMO, MURDOCH, BURKE,  
PIPER & HOCHMAN, P.A.

***Counsel for Ramos***

2455 East Sunrise Boulevard, Ste. 1000  
Fort Lauderdale, FL 33304

/s/Scott D. Alexander

SCOTT D. ALEXANDER

Florida Bar No. 057207

MICHAEL T. BURKE

Florida Bar No. 338771

BILLING, COCHRAN, HEATH,  
LYLES & MAURO

***Counsel for Defendants***

Suntrust Center, 6<sup>th</sup> Floor  
515 E. Las Olas Boulevard  
Fort Lauderdale, FL 33301

/s/Jeffrey R. Lawley

JEFFREY R. LAWLEY

Florida Bar No. 0596027

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 24<sup>nd</sup> day of February, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of records or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

JOHNSON, ANSELMO, MURDOCH, BURKE,  
PIPER & HOCHMAN, P.A.  
***Counsel for Defendant***  
2455 East Sunrise Boulevard, Ste. 1000  
Fort Lauderdale, FL 33304  
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/s/Scott D. Alexander

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Department of Health



# Practitioner Profile

MATTHEW DEAN KAY

Printer Friendly Version

License Number: ME63126

Profession  
Medical Doctor  
 License Status  
CLEAR/ACTIVE  
Year Began Practicing  
Not Provided  
License Expiration Date  
01/31/2024

General Information	Education & Training	Academic Appointments	Specialty Certification	Financial Responsibility	Proceedings & Actions
Optional Information	License Information				

## Specialty Certification

This practitioner holds the following certifications from specialty boards recognized by the Florida board which regulates the profession for which he/she is licensed:

Specialty Board	Certification
AMERICAN BOARD OF OPHTHALMOLOGY	OPH - OPHTHALMOLOGY

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Exh-A-

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Department of Health

# License Verification

Printer Friendly Version

MATTHEW DEAN KAY

License Number: ME63126

Data As Of 2/20/2023

License Information	Secondary Locations	Discipline/Admin Action	Practitioner Profile
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Profession	Medical Doctor
License	ME63126
License Status	CLEAR/ACTIVE
License Expiration Date	1/31/2024
License Original Issue Date	10/12/1992
Address of Record	6333 N FEDERAL HIGHWAY #401 FT LAUDERDALE, FL 33309
Controlled Substance	No
Prescriber (for the Treatment of Chronic Non-malignant Pain)	
Discipline on File	No
Public Complaint	No

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For instructions on how to request a license certification of your Florida license to be sent to another state from the Florida Department of Health, please visit the License Certifications web page.



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Department of Health



## Practitioner Profile

Printer Friendly Version

MATTHEW DEAN KAY

License Number: ME63126

Profession

Medical Doctor

License Status

CLEAR/ACTIVE

Year Began Practicing

Not Provided

License Expiration Date

01/31/2024

General  
InformationEducation  
& TrainingAcademic  
AppointmentsSpecialty  
CertificationFinancial  
ResponsibilityProceedings  
& ActionsOptional  
InformationLicense  
Information

### Education and Training

Institution Name	Degree Title	Dates of Attendance	Graduation Date
TEMPLE UNIVERSITY	MD	7/1/1983 - 5/1/1987	05/01/1987

### Other Health Related Degrees

This practitioner does not hold any additional health related degrees.

### Professional and Postgraduate Training

This practitioner has completed the following graduate medical education:

Program Name	Program Type	Specialty Area	Other Specialty Area	State or Country	Dates Attended From	Dates Attended To
RUSH PRSBYTERIAN	RESIDENCY	OPH - OPHTHALMOLOGY		CHICAGO ILLINOIS	07/01/1987	06/30/1991

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Scott Alexander <alexander@jambg.com>

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**RE: Ratlieff v. Ft. Laud, et al - conferral on Rule 35 motion**

1 message

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**Michael T. Davis** <mdavis@kuehnelaw.com>

Wed, Feb 22, 2023 at 2:16 PM

To: Scott Alexander <alexander@jambg.com>, Johan Dos Santos <JohanD@kuehnelaw.com>, "stuart@rwblawyers.com" <stuart@rwblawyers.com>, "Jeffery R. Lawley" <jrl@bclmr.com>, "Burke, Michael" <burke@jambg.com>, "stuartw@rwblawyers.com" <stuartw@rwblawyers.com>

Dear Scott:

In regards to your Request for a Defense Medical Examination of Latoya Ratlieff by Matthew Kay, M.D, on April 6, 2023, at 2:20 p.m., please note that we agree with this exam under the following terms: This exam will be videotaped unobtrusively by a videographer retained by our firm, and a representative from my office will attend the examination for observation. Dr. Kay will conduct a standard examination that will not include invasive tests or procedures, and which will not include questions pertaining to liability issues. This is not a deposition and questions pertaining to liability are not to be asked. As such, our office will also retain a court reporter to be present during this exam. If attempts are made to take either a history of the incident or there are questions as to liability, the examination will be terminated. In addition, the DME report shall be furnished to my office as soon as possible and on an expedited basis, i.e., within thirty (30) days of the DME.

Should you have any questions or concerns, or if you disagree to our terms, let me know.

Regards,

Michael

\*\*\* NOTE NEW SUITE NO. \*\*\*

Michael T. Davis

Kuehne Davis Law, PA

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Miami, FL 33131-2154

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Direct: 786.504.4739

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I'm also on Linked In

Exh-B-

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**From:** Scott Alexander <alexander@jambg.com>  
**Sent:** Tuesday, February 21, 2023 12:06 PM  
**To:** Michael T. Davis <mdavis@kuehnelaw.com>; Johan Dos Santos <JohanD@kuehnelaw.com>;  
stuart@rwblawyers.com; Jeffery R. Lawley <jrl@bclmr.com>; Burke, Michael <burke@jambg.com>  
**Subject:** Ratlieff v. Ft. Laud, et al - conferral on Rule 35 motion

Gentlemen,

Attached is a draft Joint Motion for Rule 35 exam with a neuro-ophthalmologist of Latoya Ratlieff. The motion as presently drafted states that it is unopposed, but of course I can revise if Plaintiff is objecting to being examined. Please let me know your position. Thanks. -Scott

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Scott D. Alexander

Johnson, Anselmo, Murdoch,

Burke, Piper & Hochman, P.A.

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